

The Official Website of the Department of Revenue (DOR)

# Department of Revenue

[Mass.Gov Home](#) [State Agencies](#) [State Online Services](#)



[DOR Home](#)

[For Individuals and Families](#)

[For Businesses](#)

[For Local Officials](#)

[For Tax Professionals](#)

[Home](#) > [Businesses](#) > [Help & Resources](#) > [Legal Library](#) > [Letter Rulings](#) > [Letter Rulings - By Year\(s\)](#) > [1984 and Prior](#) > [1979 Rulings](#) >

## Letter Ruling 79-45: Installment Sale by Non-Resident; Treatment of Proceeds; Reporting Procedures

### SEARCH

Select an area to search

Search

November 7, 1979

You inquire as to whether proceeds received by a non-resident in 1980 and in subsequent years from an installment sale of Massachusetts real estate occurring in 1979, qualify for the capital gains deduction provided in Section 2 of Chapter 409 of the Acts of 1979.

Section 1202 of the Internal Revenue code allows a capital gains deduction of 60% of the amount of the taxpayer's net capital gain. Net capital gain is defined as the "excess of the net long term capital gain for the taxable year over the net short term capital loss for such year." (Internal Revenue Code Section 1222(11)).

Section 2 of Chapter 409, which is effective as of January 1, 1980, allows Massachusetts taxpayers the deduction provided by Section 1202 of the Internal Revenue Code. Section 2 is modified by Section 5 of Chapter 409 which limits the capital gains deduction to 20% of the net capital gain in 1980 and to 40% of the net capital gain in 1981. The full 60% deduction is effective for 1982 and subsequent years.

Massachusetts General Laws Chapter 62, Section 63 defines an installment transaction as any transaction which is covered by Section 453 of the Internal Revenue Code and which would be an item of Massachusetts gross income for the taxable year of the transaction but for the application of Section 453.

A taxpayer reporting on the installment method for federal income tax purposes must elect either to use federal gross income for the duration of the installment transaction or to disregard the effect of the federal treatment and include the total gain in Massachusetts gross income in the year of the sale. Under the installment method, only the portion of each payment that constitutes profit, that is, the proportion of the installment payments actually received in that year which the total profit bears to the contract price, is included in gross income. (Internal Revenue Code Section 453(a)). As each installment is deemed income for the year in which it is received, it is governed by the tax law in effect for that year.

You also ask whether the interest portion of the proceeds received by the non-resident seller is taxable in Massachusetts. Under Massachusetts General Laws Chapter 62, Section 63(d), all items

of federal gross income arising from an installment transaction are considered income from sources within the Commonwealth. Both the principal and interest portions of the proceeds constitute payment for the property.

Based on the foregoing it is ruled that:

- 1. Installment sale proceeds which qualify for federal long term capital gains treatment, and are received in 1980 and subsequently, from a sale of Massachusetts real estate which occurred prior to 1980, qualify for capital gain deductions of 20% in 1980, 40% in 1981 and 60% in 1982 and thereafter.
- 2. The interest portion of the proceeds, which resulted from the sale of Massachusetts real estate, is income from sources within the Commonwealth under General Laws Chapter 62 Section 63(d), and is taxable as interest under Chapter 62.

I am enclosing a copy of the procedures to be followed by the taxpayer when electing the installment method of reporting. The Desk Audit Bureau requires that the taxpayer give the Bureau notice that he intends to use the installment method at least fifteen days prior to the due date of the return.

Very truly yours,

/s/L. Joyce Hampers

L. Joyce Hampers  
Commissioner of Revenue

LJH/RSF/jmcd

encl.

LR 79-45